

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SHARON BOBBITT, Individually and On Behalf of All Others Similarly Situated,	)	No. 04-12263-PBS
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ANDREW J. FILIPOWSKI, et al.,	)	
	)	
Defendants.	)	
	)	
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JAMES F. HOWARD, Individually and On Behalf of All Others Similarly Situated,	)	No. 06-11072-PBS
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ANDREW J. FILIPOWSKI, et al.,	)	
	)	
Defendants.	)	
	)	
<hr/>		)

**ASSENTED TO MOTION TO CONTINUE MARCH 25, 2008 HEARING**

Plaintiffs respectfully submit this Assented to Motion to Continue the Hearing on Final Approval of the Settlement in the above-referenced actions, currently scheduled for March 25, 2008, to a date on or after June 3, 2008.

The March 25, 2008 hearing was scheduled by the Court at a January 3, 2008 status conference when it was hoped that certain attendant matters would proceed more rapidly than they have. In short, the parties cannot present the settlement for final approval on March 25, 2008, because the settlement agreement between the trustees in the Enivid/Divine and Sabine/RoweCom bankruptcies (the “Estate Representatives”) and defendants in their action in the Bankruptcy Court was not fully executed until last week. Settlement with the Estate Representatives, once approved by

the Bankruptcy Court, will result in the dismissal of several appeals, including one to an order by the Bankruptcy Court approving the use of divine's officers and directors insurance policy proceeds to fund this Settlement.

The parties are informed that the Estate Representatives will file their settlement papers and application seeking approval in Bankruptcy Court by next week. Therefore, notice of this Settlement can be disseminated shortly and the parties are hopeful that such Bankruptcy Court approval will be granted before any final settlement hearing scheduled by the Court.

Plaintiffs and Defendants have executed an Amended Stipulation of Settlement with exhibits, including a proposed Amended Order Preliminarily Approving Settlement and Providing For Notice, and those documents will be filed with the Court next week. The Amended Stipulation of Settlement reflects a reduction in the settlement value of \$200,000 from the settlement embodied in the Stipulation which had previously been preliminarily approved on August 25, 2006. Plaintiffs agreed to this reduction in exchange for the Estate Representatives' agreement to dismiss their appeal of the Bankruptcy Court's order approving the use of policy proceeds, as noted above.

Counsel for Plaintiffs have conferred with counsel for Defendants, and the parties respectfully propose that this Court set the following dates in the proposed Amended Preliminary Order which will be filed with the Amended Stipulation of Settlement.

Court Hearing on Fairness and Settlement: On or after June 3, 2008, at the Court's convenience

Submit Claim: June 27, 2008

Request Exclusion: May 20, 2008

File Objections: May 20, 2008

Mailing of Notice of Pendency: 21 days after entry of the Amended Preliminary Approval Order

Publication of Summary Notice:

7 calendar days after mailing of Notice of  
Pendency

If the Court does not believe it will be necessary for counsel to appear at the March 25, 2008 hearing in order to discuss the proposed schedule or any other questions the Court may have, counsel respectfully request that the hearing be adjourned and the final hearing be continued to June 3, 2008, or to another date suitable for the Court.

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)**

Undersigned counsel conferred with counsel for defendants in a good faith effort to resolve or narrow the issues raised by this Motion with the following results: defendants assent to the relief sought by this Motion.

DATED: March 21, 2008

Respectfully submitted,

GILMAN AND PASTOR, LLP  
DAVID PASTOR

/s/ David Pastor

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